IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

&

THE HONOURABLE MRS. JUSTICE K.HEMA

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

MFA.No. 222 of 2002()

OPMV.1920/1997 of MOTOR ACCIDENT CLAIMS TRIBUNAL, THRISSUR

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APPELLANT: PETITIONERS

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1. RAJAMANI, W/O. LATE KARUPPUSWAMI,
   VELAPPAYA ROAD, VARADIYAM, THRISSUR DISTRICT.

2. MUTHURAJ, S/O. LATE KARUPPUSWAMI,
   -DO- -DO-

3. SELVARAJ, S/O. LATE KARUPPUSWAMI,
   -DO- -DO-

4. MANIKANDAN, S/O. LATE KARUPPUSWAMI,
   -DO- -DO-

5. SELVI, D/O. LATE KARUPPUSWAMI,
   -DO- -DO-

6. SURESHKUMAR, S/O.KARUPPUSWAMI,
   -DO- -DO-
   (APPELLANTS 2 TO 6 ARE MIN0RS AND ARE REPRESENTED BY THEIR MOTHER AND LEGAL GUARDIAN, THE 1ST APPELLANT).

BY ADV. SRI.DILIP J. AKKARA

RESPONDENTS: RESPONDENTS.

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1. RAJESH, S/O. NARAYANAN NAMBIAR,
   ANNAKKARA VEETTIL, KODAKARA VILLAGE, KAVIL DESOM, THRISSUR DISTRICT.

2. JESSY PAULSON, ALAPPAT HOUSE,
   PERAMBRA, KODAKARA, THRISSUR.

3. THE UNITED INDIA INSURANCE COMPANY LTD.,
   ALANGADAN BUILDING, TANA, IRINJALAKUDA.

4. ALOSIUS XAVIER, S/O. XAVIER,
   KOLLAMPARAMBIL HOUSE, ALUVA P.O.

5. MANAGING DIRECTOR, K.S.R.T.C.,
   TRIVANDRUM.

BY ADV. SMT.V.P.SEEMANDINI, SRI.M.R.ANISON
SRI.M.A.GEORGE
SHRI.K.PRABHAKARAN,SC KSRTC.(B/O)

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 15/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.HEMA,JJ.

M.F.A.NO.222 OF 20O2

Dated this the 15th day of November, 2007

JUDGMENT

Koshy, J.

Dependents of a motor accident victim filed an application for compensation contending that while the deceased was travelling along with his goods in the goods vehicle insured by the third respondent Insurance Company, K.S.R.T.C bus hut the same, thereby he suffered fatal injury. The K.S.R.T.C was impleaded as 5th respondent. After considering the scene mahazar and other evidence, the Tribunal found that the accident occurred due to the negligence of the driver of the K.S.R.T.C bus and therefore, compensation awarded should be deposited by the 5th respondent. The 5th respondent did not file any appeal. Therefore, that award has become final. The appellants-claimants in this case mainly question the quantum of compensation as against a claim for Rs.5,00,000/- limited to Rs.3,00,000/-. Only an amount of Rs.1,35,000/- was awarded.

2. On the date of accident, i.e., on 29.8.1997 the age of the deceased was 33. He left his wife and five minor children. The

Tribunal has taken only Rs.15,000/- as the annual income as his income was not proved by documentary evidence. In this case the job of the deceased was collecting the selling old sacks. He was maintaining a family of 6 members, i.e., his wife and five minor children. According to claimant, he has given to the family atleast Rs.100/- per day. In 1994 when second schedule was framed, the income of non-earning person including a minor was fixed as Rs.15,000/- per year. Here, the deceased was an earning person, maintaining a big family. In the above circumstances, we are of the view that atleast Rs.1,800/- can be fixed as the monthly income. One-third has to be deducted for personal expenses. Therefore, family contribution can be fixed as Rs.1,200/-. Considering the age of the deceased, 17 is the multiplier as per second schedule. The Tribunal has taken 17 as the multiplier and no enhancement is necessary. Therefore, compensation payable will be Rs.2,44,800/- (1,800 x 12 x 17). For the loss of dependency to the family, the Tribunal awarded only Rs.1,70,000/-. Therefore, the claimants will be entitled to an additional amount of Rs.74,800/-. The accident was on 29.8.1997. He died only on 5.9.1997. Considering the medical bills produced, only Rs.2,586/- was awarded towards medical and other incidental expenses like expenses for transportation to the hospital

and transportation of dead body, only Rs.5,000/- was awarded. We are of the view that entire expenses in the hospital will not be reflected in the bills. We award Rs.1,200/- more on that count. We are of opinion that no enhancement is necessary for compensation awarded under other heads. Therefore, total additional amount payable will be Rs.76,000/- over and above the decreed amount by the Tribunal. The above amount should be deposited by the 5th respondent K.S.R.T.C with 7.5% interest from the date of application till the date of deposit. One-fourth of the amount can be disbursed to the first appellant, mother of the deceased as she has to maintain the children. Balance amount should be deposited in equal shares in the name of appellants 2 to 6 children in a nationalised bank, enabling them to withdraw the amount when they become major.

The appeal is allowed, partly.

J.B.KOSHY, JUDGE

K.HEMA, JUDGE

vgs.

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NO.222 OF 2002

JUDGMENT

15.11.2007